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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,771	01/16/2002	W. Michael Anderson	MS1-869US	7777

22801 7590 01/25/2005
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EXAMINER

BAYERL, RAYMOND J

ART UNIT	PAPER NUMBER
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2173

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/050,771	Applicant(s) ANDERSON ET AL.	
	Examiner Raymond J. Bayerl	Art Unit 2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondenc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 - 33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>16 January 2002</u> | 6) <input type="checkbox"/> Other: ____ |

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8 – 9, 15 – 16, 21 – 24, 28 – 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The pairs of claims 8, 9; 15, 16; 21, 23; 22, 24; 28, 30; 29, 31 are identical in their wording and recitation. It is not clear why applicant has chosen to present such claims, directed to the same embodiment.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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5. Claims 1 – 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clayton et al. ("Clayton"; US #6,725,022) in view of applicant's own admission as to prior art in the present specification.

As per independent claim 1's "in-vehicle audio browser", Clayton, in ENABLING THE SELECTION OF CONTENT ON A WIRELESS COMMUNICATION DEVICE, provides for [a]n internet radio for portable applications and uses such as in an automobile (Abstract). The multimedia device 20 of Clayton specifically includes a display screen 160 that is accompanied by a number of button controls (fig 2; col 9, lines 1 – 51). For "a first set of buttons configured to select a preset item", Clayton has preset button 166 controls. The "second set of buttons configured to move forward and backward through a list of items" reads directly upon the channel selector buttons 162a, by which the user can see all the channels available within a subcategory (col 9, lines 30 – 61). The "fourth button configured to activate a function that varies depending on the selected band" has a parallel in the action buttons 172, whose purposes may change from program to program (col 10, lines 26 – 36).

While Clayton permits the navigation of information channels by browsing through them (up, down, forward, back), Clayton does not **explicitly** teach the addition of a "third button configured to select among a plurality of bands associated with the audio browser". However, in the prior art situation of multiple bands noted by applicant at pages 1 – 2 of the present specification, it is noted by applicant that a selected band is the basis for further selections among the content such as AM, FM1, FM2, and CD that were typical in a car stereo at the time of applicant's invention.

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Thus, it would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to provide for a broader selection "among a plurality of bands" as per the admitted prior art, in arriving at the variety of services available as information channels in Clayton, because Clayton indeed incorporates such a variety that whole categories of information services should be more properly segregated in such a way than through membership in a selection tree such as is navigated by button 162.

As per claim 2's "radio band", "CD player band", these were known in the "in-vehicle audio" systems of the prior art, as seen in applicant's own admission. The further extension to "digital media" reads upon the digital audio or Internet audio broadcast that can be invoked in Clayton (col 6, lines 44 – 54). Claim 3 expands upon the list of claim 2, to include a "navigation band" (Clayton's navigation services; col 11, lines 57 – 66), a "contact list band" (Clayton's incorporation of Personal directory data from phone books, address books and to-do lists; col 12, lines 42 – 52) and a "telephone task band" (Clayton's capacity to call a phone number from an advertisement; col 10, lines 26 – 36).

As per claim 4's "display configured to identify ^{the} ~~to~~ selected band", please note that the display screen 160 in Clayton's fig 2 has a SELECTED CHANNEL DISPLAY in the main client region. This indicates which kind of service is being provided, and thus, in the obvious extension to "band"-organized services suggested by the admission as to prior art, which "band" is in use.

RB

Claim 5 recites that “the plurality of bands includes a set of primary audio control bands and a set of conditional audio control bands”. However, Clayton also has such a division between service types: The two types of channels preferably available are audio broadcasts (e.g., AM, FM, TV, digital, Internet audio broadcasts and recorded material) and personal information services (e.g., navigation, email, traffic alerts, etc.). (col 5, line 67 – col 6, line 13). As in claim 6, “the primary audio control bands [Clayton’s audio broadcasts] affect the audio control bands”, and “when selected” (claims 7, 14, 20), while the personal information services, achieved through such means as speech synthesis (col 10, lines 42 – 45), are intermittent, and thus read upon something that is “conditional”.

As per claims 8, 9, with a “fourth button” that “is configured to save currently playing audio output” (see also claim 32), it has been noted that the action buttons 172 of Clayton’s fig 2 may change from program to program. One of these can be “INFO” to save extended information on something that is being broadcast (col 10, lines 26 – 36). When taken in conjunction with Clayton’s being a solution to the problem of recording of the radio in the vehicle at preset times for later playback (col 4, lines 15 – 29), it would have been further obvious to the person having ordinary skill in the art at the time of applicant’s invention to use a Clayton action button to “save” as is recited, since this is a central goal of Clayton and Clayton already lets extended information be retained from real-time broadcasts.

The action button choices in Clayton clearly give a “fourth button” configuration “to select among a current task” for the program in play (claim 10). The “fifth button

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configured to select among a plurality of audio sources" (claim 11) can be reasonably interpreted to read upon the additional axis of functionality for selection provided by Clayton's channel selector 162.

That "the stored information is synchronized with an external computing device" (claim 12) follows from the ability in Clayton to handle Personal directory data, as from notebook computers, PDAs or cellular phones (col 12, lines 42 – 52).

Features of the "in-vehicle audio browser" recited in independent claim 13 have been already discussed, relative to those claims dependent upon claim 1. The "first set of buttons configured to select a preset item" have parallel in Clayton's preset button 166, while the "second button configured to select between a set of primary audio control bands and a set of conditional audio control bands" is suggested in the prevalence of "band"-selection controls on prior art systems as per applicant's admission, when extended to the larger set of broadcast and personal services contemplated by Clayton.

A "conditional audio" requirement is established in the personal scenario (claims 15, 16, 21, 23), since the needed output, say, from stock quote or navigation services "do not affect the audio output" in Clayton "unless some action on the band requires audio output".

The "fourth button configured to activate a function that varies based on the band" (claim 17), as noted above with respect to claim 1, reads upon the action buttons 172 whose function is also soft-key mapped to depend upon "the selected band" (claim 18).

Independent claim 19's "user interface" also resembles a Clayton services screen arrangement, when modified as per the admitted prior art. The use of "a source button" for differentiation between "primary" and "conditional audio" reads upon the suggestion that existing "band" controls be applied to the world of extended broadcast and personal services in Clayton. When Clayton finally has such a "band" chosen, "a display device" (display screen 160) then provides information relevant to that band.

Certainly among the broadcast bands available in the admitted prior art set-up are "a radio band and a CD player band" (claims 22, 24, 28, 30), and within the personal services in Clayton, "navigation" and "a contact list" (claims 25, 29, 31) are seen, as noted above with respect to claim 2.

The "computer-readable media" of independent claim 26 are of a type that would be employed, should the multimedia device 20 in Clayton be configured with "band" controls as per the admitted prior art. The "display" from among a "primary" and "conditional audio control band" is to be seen in Clayton, who provides both such services and an interactive screen in support of them, as noted above. The use of a "first car radio button" for "changing the currently selected car radio band" would follow from the maintenance of an admittedly prior art "band" selector in the environment of Clayton's expanded services. Then, "moving through a list of items" is made possible with Clayton's channel selector 162, the "second car radio button".

In such a setting, by "using a set of preset buttons" (the Preset buttons 166), the Clayton user may "select a particular item" (claim 27). Also, the telephone integration disclosed by Clayton makes it possible to "CALL" to call a phone number (col 10, lines

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26 – 26), as in claim 33's ability to "dial a phone number currently displayed on the car radio in response to activation of an ACT button [a Clayton action button] on the car radio".

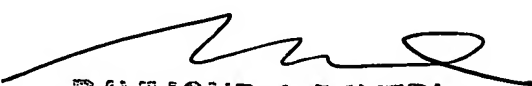
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The remaining prior art documents cited (see attached form PTO-892) relate to in-vehicle media systems.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond J. Bayerl whose telephone number is (571) 272-4045. The examiner can normally be reached on M - F from 9:00 AM to 4:00 PM ET.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached on (571) 272-4048. All patent application related correspondence transmitted by FAX **must be directed** to the central FAX number (703) 872-9306.

9. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.


RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173

19 January 2005